MEMORANDUM

TO: Marijuana Control Board

FROM: Jane P. Sawyer, Regulations Specialist

DATE: October 23, 2020

RE: Regulations Project – THC Content for Edibles

At the October 2020 meeting, the board opened a regulations project to increase the THC content limit on single servings and multiple-servings package from 5mg/50mg to 10mg/100mg. Attached is the initial draft for board consideration.

- 3 AAC 306.005(a)(1) and 3 AAC 306.300(a)(2)(A) are simply updating the range of applicable provisions under the subsections.

- 3 AAC 306.560 is amended to allow for a single serving to contain not more than 10 milligrams of THC, and for a single packaged unit to contain not more than 100 milligrams of THC. The packaged unit still may not exceed 10 servings, each serving may not exceed a certain amount of THC content.

- 3 AAC 306.645(b)(1)(B)(iii) simply updates the example provided of the 20 percent variance allowed for THC content in a single serving. The actual math needs to be done by the manufacturer based on manufacturer’s target.

- 3 AAC 306.645(b)(1)(C)(i) is changed from 60 milligrams to 120 milligrams. 120 milligrams would be the maxed allowed THC content in an individually packaged edible marijuana product within a test lot based on the 20 percent variance.

Options for the board:
- Put out for public comment
- Amend and put out for public comment
- Send back to staff for revisions
- Close the project without action
3 AAC 306.005(a)(1) is amended to read:

(1) a retail marijuana store license, granting authority for activities allowed under AS 17.38.070(a), and subject to the provisions of 3 AAC 306.300 – 3 AAC 306.370 [3 AAC 306.300 - 3 AAC 306.365] and 3 AAC 306.700 - 3 AAC 306.770;

(Eff. 2/21/2016, Register 217; am 10/17/2018, Register 228; am ____/____/______, Register ____)

Authority:  AS 17.38.010   AS 17.38.150   AS 17.38.200
            AS 17.38.070   AS 17.38.190   AS 17.38.900
            AS 17.38.121

3 AAC 306.300(a)(2)(A) is amended to read:

(A) each applicable provision of 3 AAC 306.300 – 3 AAC 306.370 [3 AAC 306.300 - 3 AAC 306.365] and 3 AAC 306.700 - 3 AAC 306.770; and

(Eff. 2/21/2016, Register 217; am 10/17/2018, Register 228; am ____/____/______, Register ____)

Authority:  AS 17.38.010   AS 17.38.150   AS 17.38.200
            AS 17.38.070   AS 17.38.190   AS 17.38.900
            AS 17.38.121

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3 AAC 306.560 is amended to read:

**3 AAC 306.560 Potency limits per serving and transaction for edible marijuana products.** A marijuana product manufacturing facility may not prepare a marijuana product with potency levels exceeding the following, as tested in compliance with 3 AAC 306.645:

1. for a single serving of a marijuana product, **not more than 10 (FIVE) milligrams of active tetrahydrocannabinol (THC) or Delta 9;**

2. in a single packaged unit of a marijuana product to be eaten or swallowed, not more than 10 servings or **100 (50) milligrams of active THC or Delta 9;** the THC content must be homogenous, or evenly distributed throughout the marijuana-infused product. (Eff. 2/21/2016, Register 217; am ____/____/______, Register ______)

**Authority:**  AS 17.38.010  AS 17.38.150  AS 17.38.200  
AS 17.38.070  AS 17.38.190  AS 17.38.900  
AS 17.38.121

3 AAC 306.645(b)(1) is amended to read:

(b) The tests required for each marijuana type or marijuana product, are as follows:

1. potency testing is required on marijuana bud and flower, marijuana concentrate, and a marijuana product, as follows:
(A) the required cannabinoid potency test must at least determine the concentration of THC, THCA, CBD, CBDA and CBN cannabinoids; a marijuana testing facility may test and report results for any additional cannabinoid if the test is conducted in compliance with a validated method;

(B) a marijuana testing facility shall report potency test results as follows:

(i) for a potency test on marijuana and marijuana concentrate, the marijuana testing facility shall list for each required cannabinoid a single percentage concentration, based on dry weight, that represents an average of all samples within the test batch; additionally, total THC and total CBD shall be reported;

(ii) for a potency test on a marijuana product, whether conducted on each individual production lot or using process validation, the marijuana testing facility shall list for each cannabinoid the total number of milligrams contained within a single retail marijuana product unit for sale;

(iii) testing whether the THC content is homogenous, the marijuana testing facility shall report the THC content of each single serving in a multi-unit package; the reported content must be within 20 percent of the manufacturer's target; for example, in a **100 total THC package with 10 servings, each serving must contain between eight and 12 milligrams of THC**; [IN A 25 MILLIGRAMS TOTAL THC PACKAGE WITH FIVE SERVINGS, EACH SERVING MUST CONTAIN BETWEEN FOUR AND SIX MILLIGRAMS OF THC:]

Commented [SJP(1)]: This is just updating the example. The actual math needs to be done by the licensee based on their target.
(C) the marijuana testing facility shall determine an edible marijuana product to have failed potency testing if

(i) an individually packaged edible retail marijuana product contained within a test lot is determined to have more than 120 [60] milligrams of THC within it; or

(ii) the THC content of an edible marijuana product is not homogenous;

(Eff. 2/21/2016, Register 217; am 7/5/2017, Register 223; am 11/8/2018, Register 228; am ___/___/______, Register _____)

**Authority:**

AS 17.38.010  AS 17.38.150  AS 17.38.200

AS 17.38.070  AS 17.38.190  AS 17.38.900

AS 17.38.121